

### REMARKS

This Application has been carefully reviewed in light of the Final Office Action mailed June 6, 2005. At the time of the Final Office Action, Claims 1-3, 6-8, 10, 11, 19-21, and 26-29 were pending in this Application. Claims 4, 5, 9, 12, 13, 18, and 22-25 were previously withdrawn due to an election/restriction requirement. Claims 1-3, 6-8, 10, 11, 19-21, and 26-29 stand rejected. Claim 30 is hereby withdrawn due to an election/restriction requirement. Claims 1, 2, 3, 19, 26-28 and 29 have been amended to more clearly define various features of Applicant's invention. In particular, Claim 1 has been amended to include the limitations of former Claim 6, Claim 3 has been amended to include the limitations of former Claim 7, and Claim 10 has been amended to include the limitations of former Claim 11. Claims 6, 7, and 11 have been cancelled. Applicant respectfully requests reconsideration and favorable action in this case.

#### **Election/Restriction Requirement**

Applicant acknowledges that Claim 30 has been withdrawn due to an election/restriction requirement. Examiner stated that newly added Claim 30 was directed to an invention that is independent or distinct from the invention originally claimed

#### **Rejections under 35 U.S.C. § 112**

Claims 19 and 29 were rejected by the Examiner under 35 U.S.C. §112, first paragraph, as failing to comply with the written description requirement. Applicant amends Claims 19 and 29 to overcome these rejections.

Claims 1-3, 6-8, 10, 11, 19-21, and 26-29 were rejected by the Examiner under 35 U.S.C. §112, second paragraph, as being indefinite and failing to particularly point out and distinctly claim the subject matter which Applicant regards as the invention. Applicant amends Claims 1-3, 7, 19, 26-28 and 29 to overcome these rejections and respectfully requests full allowance of all pending Claims.

With respect to claims 3 and 10 being independent claims, the Examiner stated that the meaning of intermediate and internal is confusing. Applicant respectfully disagrees. Claim 3 includes the specific limitation that an intermediate pressure variable is generated

from a position variable by a pressure profile. This refers clearly to the function of unit FB2 generating pressure value  $p_{\max}(x)$ . Claim 10 more generally defines that an intermediate setpoint is generated from a first internal variable which is derived from the first variable. In the exemplary embodiment, the first variable is the displacement value  $x$  and the intermediate setpoint is the value fed to the positive input of adder AS. Claims 3 and 10, thus, define in different more and less specific ways the same principle according to the present invention. Thus, Applicant believes that a person skilled in the art will not be confused.

Claims 26 - 28 have been amended to be in conformity with claim 10. Claim 1 and 19 have been amended to more clearly define the general principle of the present invention. In claim 1, Applicant substituted the term 'second determination unit' with the term 'unit.' The present invention concerns the generation of two setpoint values in a specific way not known from the prior art. As shown in Fig. 2, the first setpoint is generated by the upper path using variable  $x$  and determination unit FB1. The second setpoint which will also influence the control of the motor can be generated, for example, by the functional units as shown in the lower portion of Fig. 2. The general principle is disclosed on paragraphs [0005] - [0018]. Applicant used the term "a unit" which is intended to combine generally the functions of the units FB2, (FB3) and FB4 in claim 1 to generate the intermediate setpoint fed to the positive input of adder AS where it is corrected by the second variable. Claim 19 further defines this unit to include specifically a second determination unit (e.g. FB2), a third determination unit (e.g. FB3) and a select unit (e.g. FB4). Thus, Applicant now used the same terminology for units FB1, FB2, and FB3.

### **Rejections under 35 U.S.C. § 102**

Claims 1, 2, 6, and 19-21 stand rejected by the Examiner under 35 U.S.C. §102(b) as being anticipated by U.S. Patent 5,371,450 issued to Kazuo Hiraoka ("Hiraoka").

Claims 3, 7, 8, and 29 were rejected by the Examiner under 35 U.S.C. §102(b) as being anticipated by Hiraoka.

Claims 10, 11, and 26-28 were rejected by the Examiner under 35 U.S.C. §102(b) as being anticipated by Hiraoka. Applicant respectfully traverses and submits the cited art does not teach all of the elements of the claimed embodiment of the invention.

A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1997). Furthermore, "the identical invention must be shown in as complete detail as is contained in the ... claim." *Richardson v. Suzuki Motor Co. Ltd.*, 868 F.2d 1226, 1236, 9 USPQ2d 1913, 1920 (Fed. Cir. 1989). Applicant respectfully submits that the cited art as anticipatory by the Examiner cannot anticipate the rejected Claims, because the cited art does not show all the elements of the present Claims.

Hiraoka generally discloses a system which generates two setpoint values  $S_y$  and  $S_q$ . However, Hiraoka does not disclose to generate these values as claimed in the independent claims of the present application. For example, Hiraoka does not generate an intermediate setpoint and corrects this intermediate setpoint by the second variable. This correction is shown in Fig. 2 of the present application with adder AS. The generation of the intermediate setpoint is performed by functional unit FB2. The Examiner states that a further embodiment shown in Fig. 8 of Hiraoka discloses this limitation. Applicant respectfully disagrees.

The embodiment of Fig. 8 of Hiraoka discloses a gain control unit which may substitute certain units disclosed in Fig. 6. The first variable according to Hiraoka is the displacement value  $S_z$  and the second variable is the pressure value  $S_p$ . The pressure value  $S_p$  is used for correction purposes. However, it merely corrects a predefined pressure limitation signal. Hiraoka does not disclose to correct the value of an intermediate setpoint by this variable.

The Examiner stated that the intermediate setpoint value is generated by gain control unit 63 which receives a signal from variation detecting unit 61 which detects a variation of the injection speed or velocity. Thus, firstly, this unit is not using the first variable which is the displacement variable. Hiraoka is silent as to how the speed/velocity is measured. However, even assuming that this variable is derived from the displacement value, there are no means disclosed or suggested to correct this value by the second variable (pressure  $S_p$ ). On the contrary, the gain control unit signal is used to switch the control gain from one to another by controlling the pressure limitation compensator 30-2. However, Hiraoka is silent

how this is done specifically. See col. 11, lines 42-46. Nevertheless, Hiraoka clearly does not disclose to correct the output of the gain control unit with the pressure variable.

Thus Applicant believes that the independent claims are not anticipated by Hiraoka, because Hiraoka discloses a different principle for generating the setpoint values. The dependent claims include all the limitation of their respective independent claims. Thus, these claims are patentable at least to the extent of the respective independent claims.

### CONCLUSION

Applicant has now made an earnest effort to place this case in condition for allowance in light of the amendments and remarks set forth above. Applicant respectfully requests reconsideration of the claims as amended.

Applicant believes there are no fees due at this time, however, the Commissioner is hereby authorized to charge any fees necessary or credit any overpayment to Deposit Account No. 50-2148 of Baker Botts L.L.P.

If there are any matters concerning this Application that may be cleared up in a telephone conversation, please contact Applicant's attorney at 512.322.2545.

Respectfully submitted,  
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